

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Amendments to Part 4 of the Commission's Rules  
Concerning Disruptions to Communications

PS Docket No. 15-80

New Part 4 of the Commission's Rules Concerning  
Disruptions to Communications

ET Docket No. 04-35

The Proposed Extension of Part 4 of the  
Commission's Rules Regarding Outage Reporting  
To Interconnected Voice Over Internet Protocol  
Service Providers and Broadband Internet Service  
Providers

PS Docket No. 11-82

COMMENTS OF THE  
DIVISION OF COMMUNICATIONS  
VIRGINIA STATE CORPORATION COMMISSION

Introduction

The Division of Communications of the Virginia State Corporation Commission ("VSCC Staff") respectfully submits these comments in response to the Federal Communications Commission's ("FCC") Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration ("Order and Further Notice") released on May 26, 2016, in PS Docket Nos. 15-80 and 11-82, and ET Docket No. 04-35. The Order and Further Notice announces the decision to "take specific steps to improve our current part 4 rules by adopting various proposals made in a Notice of Proposed Rulemaking adopted in 2015[;]"<sup>1</sup> directs the Public Safety and Homeland Security Bureau to study issues and develop proposals for "Commission consideration regarding

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<sup>1</sup> *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Notice of Proposed Rulemaking, Second Report and Order, and Order on Reconsideration, 30 FCC Rcd 3206 (2015).

how [National Outage Reporting System (“NORS”)] filings and information collected from all part 4 providers could be shared in real time with state commissions . . . [;]” and proposes “to update the part 4 rules to ensure reliability of broadband networks used to deploy critical communications services, used both for emergency and non-emergency purposes.”<sup>2</sup>

### Discussion

The Order and Further Notice highlights the continuing importance of modernizing the outage reporting rules to increase the FCC’s “ability to detect adverse outage trends and facilitate industrywide network improvements.”<sup>3</sup> To do this, the FCC proposes to “update its part 4 outage reporting requirements to address broadband” and “amend the reporting process for outages involving interconnected VoIP service to harmonize it with the ‘legacy’ services . . . .”<sup>4</sup> The VSCC Staff believes it is appropriate for the FCC to address these service providers, particularly as their services pertain to access to 911, as such service providers are largely not within the jurisdiction of the VSCC.<sup>5</sup> Section 56-1.3 of the Code of Virginia (“Code”) provides:

Notwithstanding any provision of law, except §§ 56-484.12:1 and 58.1-1730, to the contrary:

1. “Telecommunications service” and “telephone service” shall not include the provision of Voice-over-Internet protocol service for purposes of regulation by the [State Corporation] Commission.

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<sup>2</sup> Order and Further Notice at para. 3, 10, 89, and 93.

<sup>3</sup> *Id.* at para. 3.

<sup>4</sup> *Id.* at para. 3 and 161.

<sup>5</sup> The VSCC, per statute, has no regulatory jurisdiction over wireless, VoIP, and broadband providers. Therefore, under our commission rules we do not receive outage reports from wireless, VoIP, or broadband providers.

2. The Commission shall not have jurisdiction with respect to the regulation of Voice-over-Internet protocol service, including but not limited to the imposition of regulatory fees, certification requirements, and the filing or approval of tariffs.

3. Nothing herein shall be construed to either mandate or prohibit the payment of switched network access rates or other intercarrier compensation, if any, related to Voice-over-Internet protocol service, as may be determined by the Commission.<sup>6</sup>

Furthermore § 56-1 of the Code specifically excludes “Voice-over-Internet-protocol service” or “VoIP service” from the definitions of local exchange telephone service and interexchange telephone service for purposes of regulation by the VSCC.<sup>7</sup> As the FCC does have jurisdiction over these service providers, the VSCC Staff supports the FCC's decision to consider how federal rules should apply to them by seeking to “ensure that the Commission’s outage reporting system keeps pace with technological change and the impact of evolving consumer preferences.”<sup>8</sup> The VSCC Staff further supports the FCC's attempts to ensure these proposed rules consider new risks associated with the evolving technology, such as software and database failures; the transition from legacy to IP-based protocols; and are written to cover all current, evolving, and subsequently developed technologies, in a technology neutral manner that should apply equally to all.<sup>9</sup>

With regard to the issue of sharing access to the NORS database, the VSCC Staff supports the FCC's conclusion that a process to provide states with “more direct access to NORS data . . . would serve the public interest if implemented with appropriate and

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<sup>6</sup> Va. Code § 56-1.3.

<sup>7</sup> Va. Code § 56-1.

<sup>8</sup> Order and Further Notice at para. 3.

<sup>9</sup> *Id.* at para. 102, 103, and 109.

sufficient safeguards.”<sup>10</sup> We understand that the Public Safety and Homeland Security Bureau has been directed to study the issues related to sharing NORS data and develop proposals for the FCC to consider “regarding how NORS filings and information collected from all part 4 providers could be shared in real time with state commissions, with other federal partners, and with the [National Coordinating Center for Communications], keeping in mind current information sharing privileges granted to [the Department of Homeland Security].”<sup>11</sup> We believe it is important that state commissions and other relevant state agencies have the option to access the FCC’s outage reports for its own state. The VSCC is primarily interested in outages that impact the telecommunications portions of emergency 911 services provided to Public Safety Answering Points (“PSAPs”) (see § 56-54.5.B of the Code). State commissions and other relevant state agencies need to work closely with PSAPs to ensure network reliability and continued public safety within the state. Furthermore, access to FCC outage reports that affect 911 services will be helpful so that each state, as appropriate, can keep pace with and adapt to technological changes, help with the transition to Next Generation 911 (“NG911”), recognize and correct adverse trends or errors in their initial stages, and engage with the new players in the 911 market.

The Order and Further Notice states that the “outage reports, particularly in the early stages of a communications disruption, provide critical situational awareness that enables the Commission to be an effective participant in emergency response and service

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<sup>10</sup> *Id.* at para. 88.

<sup>11</sup> *Id.* at para. 89.

restoration efforts.”<sup>12</sup> This is not only true at the federal level but, depending on the disruption or emergency, may be even be more important at the state level. The first line of defense for a specific disruption may be awareness and participation with “boots on the ground” at the state level. This participation by the states should not be discounted but should be encouraged.

Providing states the option of simultaneously receiving state specific outage reports when filed with the FCC’s NORS database will provide valuable information to state commissions and relevant state agencies, and possibly allow those states to address and correct an issue before it becomes a major widespread disruption. Granting a state read-only access to the NORS database would be a useful, but less efficient alternative.

To be assured that the FCC receives all pertinent information, outage reporting should be mandatory for all carriers. This is of particular importance in the area of 911 calling where the public safety and public interest are at risk. While the VSCC does not have jurisdiction over a number of providers subject to the FCC's authority, having access to outage reports involving 911 calling will be helpful to the VSCC Staff in determining whether an outage is related to an aspect of service within our jurisdiction. This is particularly true while the transition to NG911 service is underway and providers are migrating from traditional wireline to newer technologies, and possibly using a combination of facilities for a citizen's call to 911 to be completed to the correct PSAP.

The Association of Public Safety Communications Officials advises that “knowledge of a significant degradation of service short of a complete failure is of high

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<sup>12</sup> *Id.* at para. 8.

value to PSAPs and emergency managers.”<sup>13</sup> This sentiment is echoed by the National Association of State 911 Administrators, which believes that “it should not matter” whether a PSAP has suffered a complete or only a partial loss of ability to receive 911 calls. The New York Public Service Commission submits that a provider’s duty to report an outage should arise “whenever a service disruption or significant degradation prevents completion of any 911 call at the PSAP for any period of time, for any customer.”<sup>14</sup> We agree that outages and service degradations to PSAPs should be reported to, and investigated by, the FCC, state commissions, and other relevant state agencies quickly to resolve outages and to help prevent future outages. As an example, in a recent investigation of a significant 911 service degradation in Virginia, the root cause of the outage was identified and corrected. Based on that outage and report, similar design weaknesses were found and corrected throughout Virginia and elsewhere in the provider’s footprint. In this instance the required outage report resulted in an in depth root cause analysis where the systemic cause was identified and corrected to prevent the possibility of similar outages.

We also stress the importance of complete information being provided in outage reports. For example, after investigating a recent NORS outage report for one PSAP in Virginia, it was determined that the failure in the host central office had caused outages in two adjacent PSAPs. A complete outage report would have reported the outage of three PSAPs.

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<sup>13</sup> *Id.* at para. 47.

<sup>14</sup> *Id.*

Providing states the option of receiving simultaneously a copy of 911 outage reports required to be filed with the FCC involving that state would be an effective and efficient way of informing the state commissions or other relevant state agencies of network issues and outages with little or no additional work on the part of providers. We acknowledge that providers may have concerns about this information being shared with, or provided to others. As stated in paragraph 81 of the Order and Further Notice, Section 4.2 of the FCC rules provides that reports filed in NORS are presumed confidential. In Virginia, the VSCC has in its Rules of Practice and Procedure<sup>15</sup> rules concerning the protection of confidential information.<sup>16</sup> Accordingly, we believe that the VSCC has the ability to provide any information designated as confidential the protection to which it ought to be afforded.

Further security requirements may be necessary, especially with the introduction of IP networks and the threat of terrorism, but access to the outage information is critical for awareness and coordination of network reliability.

The FCC and appropriate state and local authorities should continue to collaborate and work together to achieve our joint objective of ensuring the public's safety. The Order and Further Notice points out that the increasing complexity of the IP-based 911 network architecture, combined with the increased diversity of entities supporting 911 capabilities, create potential obstacles to establishing prompt situational awareness and initiating recovery from major outages. Situational awareness and coordination are key components in mitigating the impact of outages, and especially 911 outages even in the legacy network.

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<sup>15</sup> 5 VAC 5-20-10 *et seq.*

<sup>16</sup> 5 VAC 5-20-170.

Simplex outages and reporting remain an important part of situational awareness. We agree that the simplex outage reporting requirement should be less than five days. In addition, there should be special emphasis on simplex conditions involving 911 facilities. If a simplex condition involves a failure for a path or equipment providing 911 service, it should be repaired and returned to service on an emergency basis. We have seen such conditions result in 911 outages or degradations because the other side failed before repairs were completed.

As the Order and Further Notice recognizes, both the FCC and states need to be vigilant in ensuring that the safety, reliability, and security of the communications network is not jeopardized. Continued special emphasis should be placed on the 911 infrastructure as it exists today and as it transitions to NG911 in Virginia and across the nation.

### Conclusion

The VSCC appreciates the opportunity to provide comments on the Order and Further Notice. We ask that the comments provided above be considered as the Public Safety and Homeland Security Bureau develops proposals for the FCC to consider regarding how NORS filings can be shared with the states. It is particularly important that states have the option to receive state specific 911 outage reports at the time they are filed with the FCC.

As the current 911 system transitions to NG911, providers will offer advanced features and functions that will benefit consumers and the public safety community. Nevertheless, we need to be vigilant in ensuring that public safety remains paramount at



the FCC and the states, and that 911 outages are given top priority. We encourage and support the FCC's efforts in this proceeding to continue and expand the reliability of 911 systems to all.

Respectfully submitted,  
Virginia State Corporation Commission Staff

A handwritten signature in black ink, appearing to read "William Irby". The signature is fluid and cursive, with the first name "William" being more prominent than the last name "Irby".

William Irby  
Director  
Division of Communications

August 26, 2016